

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE

AT JACKSON

JUNE SESSION, 1996

FILED

June 28, 1996

Cecil Crowson, Jr.
Appellate Court Clerk

LARRY DARNELL RUSSELL,)

C.C.A. NO. 02C01-

9510-CC-00299

Appellant,)

LAUDERDALE COUNTY

VS.)

HON. JOSEPH H. WALKER
JUDGE

STATE OF TENNESSEE,)

Appellee.)

(Habeas Corpus)

ON APPEAL FROM THE JUDGMENT OF THE
CIRCUIT COURT OF LAUDERDALE COUNTY

FOR THE APPELLANT:

FOR THE APPELLEE:

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OPINION FILED _____

AFFIRMED PURSUANT TO RULE 20

DAVID H. WELLES, JUDGE

ORDER

This is an appeal pursuant to Rule 3 of the Tennessee Rules of Appellate Procedure. The Petitioner applied for a writ of habeas corpus in order to test the legality of his arrest on a governor's extradition warrant. After conducting an evidentiary hearing, the trial court dismissed the petition for a writ of habeas corpus. It is from this dismissal that the Petitioner appeals. We affirm the judgment of the trial court.

The Petitioner testified at the hearing in the trial court that he was not the same person charged in the extradition warrant and that he was not in the demanding state at the time the crime was alleged to have been committed. The testimony of a law enforcement officer from the demanding state, along with other evidence, directly contradicted the testimony of the Petitioner. The trial court found that the Petitioner had been charged with a crime in the demanding state, that the extradition documents were in order on their face, that the Petitioner was the same person named in the extradition request and that the Petitioner was a fugitive from the demanding state. The court further found that there was "overwhelming evidence" that the Petitioner was in the demanding state when the alleged offense occurred.

We conclude that the evidence does not preponderate against the findings of the trial court. We further conclude that no error of law requiring a reversal of the judgment is apparent on the record.

Based upon a thorough reading of the record, the briefs of the parties, and the law governing the issues presented for review, the judgment of the trial court is affirmed in accordance with Rule 20 of the Court of Criminal Appeals of Tennessee.

DAVID H. WELLES, JUDGE

CONCUR:

JOSEPH M. TIPTON, JUDGE

JERRY L. SMITH, JUDGE